

Forbes

Illegal Immigration Surged Because We Curtailed Legal Worker Migration 50 Years Ago

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October 3, 2015

Today marks the 50th anniversary of President Lyndon Baines Johnson signing the Immigration and Nationality Act of 1965. It removed the atrocious racial barriers in immigration law but also restricted economic migration—especially from the Western Hemisphere.

We continue to struggle with its mixed legacy, particularly now that a spotlight is shining on our dysfunctional immigration system.

The 1965 Act replaced a series of eugenics-inspired and labor union-backed immigration restrictions from the Immigration Act of 1924. That law intentionally discriminated against immigrants from outside of North-Western Europe and reinforced bans on immigrants from entire continents in a system called “national origins.”

If the 1924 Act was meant to exclude people based on their supposed racial inferiority, why did it rely on a national origins system instead of just banning races outright? Henry Pratt Fairchild, American Eugenics Society president, sociologist, and 1924 Act supporter, explained that a national origins system accomplished roughly the same outcome as an explicit race-based system without the “endless confusion and intolerable litigation. So Congress substituted [in] the term nationality” for race. In other words, a national origins system was easier, cheaper, and involved fewer lawyers.

Removing the discriminatory features of immigration law also meant subjecting immigrants from Western Hemisphere countries to more regulation. There was no numerical quota on any immigrants from the Western Hemisphere prior to 1965—so long as they met the other criteria for a green card. Legal Hispanic immigration to the United States was impeded by the 1965 Act.

Expanding family-based immigration

Mexican immigration surged in the early 20th century as they fled civil war and substituted for Chinese and Japanese immigrants who were banned under law. Immigration from Mexico shot up again in the 1940s, 1950s and 1960s following the deportation of about two million of them during the Great Depression. It wasn't until the 1980s that Mexican immigration started to expand rapidly—due to the recession in Mexico and family-reunification from the 1986 amnesty.

The 1965 Act created new green card categories for the relatives of Americans and legal immigrants to the United States. But the 1965 Act did not create the family-based or chain-migration immigration system—the restrictive Immigration Act of 1924 did. In addition to creating numerical quotas on immigrants for the first time, it exempted the children and wives (husbands were not exempted until 1952) from the quota.

The 1965 Act did expand family-based immigration though—but only because anti-immigration groups demanded it. The original version of the 1965 Act set aside half of all green cards for workers or those with exceptional skills. Those in Congress desperate to preserve the national origins quota responded by expanding the family categories and adding a green card category for siblings that would account for 24% of all green cards. When defenders of the national origins system were done, 75% of green cards were allocated to family members of Americans.

Immigration restrictionists supported family-based immigration because they thought it would preserve European immigration and act as a *de facto* national origins quota. As two American Legion supporters of the new family-based immigration system wrote at the time, the emphasis on family unification was “a naturally operating national-origins quota.” How wrong they were.

The 1965 Act’s emphasis on family reunification eased Mexican immigration but it was already surging by the time LBJ signed this act into law. The real beneficiaries of the 1965 Act were Asians who rapidly and immediately began to immigrate in large numbers shortly after the law went into effect. In the decade of the 1970s, more Asians immigrated to the United States than in all of previous U.S. history combined—and the numbers have increased ever since.

The cancellation of the Bracero program

Illegal immigration began its half-century surge around the time that LBJ signed the 1965 Act—but the two events are unrelated. A year prior to the 1965 Act, Congress ended the last large-scale guest worker visa for lower skilled migrants: the Bracero program. American economic demand for labor and the willingness of millions of Mexicans to work for Americans continued despite Congress’ cancellation of Bracero, only such movement was illegal after 1964.

From 1942 to 1964, nearly five million Mexican workers legally entered and worked in the United States on Bracero, returning home at the end of their seasonal employment. At the height of the program, half a million workers came in annually to work on American farms. In its main failing as a bill, the 1965 Act did not create a similarly flexible migrant work visa and also piled on more wage regulations for the few economic migrants allowed, consigning these migrants to work as illegal immigrants.

The lesson is that curtailing legal worker migration and burdening the rest with more regulations channels forced would-be legal immigrants into the black market. The government cannot regulate an illegal market, so in the interest of safety, order, and legality, economic migration must be liberalized. Ethnic and racial central planning was the abhorrent essence of immigration restrictions from the 1920s to 1965 but replacing it with economic central planning only created a new set of problems.

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